

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK**

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In re:

KRISHNA JAGROO

Chapter 13

Debtor.

Case No. 19-40123-nhl

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**OBJECTION TO MOTION TO DISMISS BY JPMORGAN
CHASE BANK TO DISMISS CASE**

Joseph Y. Balisok, an attorney admitted to practice in the Courts of the State of New York, and not a party to this action, subscribes and affirms the following to be true under the penalties of perjury:

1. On March 30, 2020, JPMorgan Chase Bank, N.A. (JPMorgan) filed a Motion pursuant to 11 U.S.C. § 1307, to dismiss the instant bankruptcy proceeding.
2. On Thursday May 7, 2020, at 4:52 PM, Attorney Robert Griswold sent me an email stating the following:

“I have talked to my client, and I see that your client has requested a forbearance for covid related reasons. As you know, we have a pending motion to dismiss your case. I would propose an agreement that you withdraw your claim objection and we withdraw our motion to dismiss. We would acknowledge the forbearance as well.

I’m not sure if you saw my response, but our claim was timely, and almost every other item in your claim objection has nothing to do with us.

Please let me know if this is something you are interested in.”

(see email attached hereto as Exhibit A.)

3. On May 13, 2020, at 10:44 AM, the Debtor, via email response, accepted the above offer proposed by JPMorgan. (see email attached as Exhibit B.)
4. On May 13, 2020 at 11:08 AM, Counsel for JPMorgan, via email, stated the following:

“I’ll send over a proposal and we will withdraw the Motion to dismiss.” (see email attached as Exhibit C.)
5. The email received on May 7, 2020 did not have qualifying language which implied in any way that it was protected settlement language pursuant to Federal Rules of Evidence 408 (FRE).
6. The last communication from Mr. Griswold was admissible as an admission of a party opponent. See FRE 801(d)(2).
7. The Debtor understood the same email to be a binding agreement on the parties to resolve the matter in full.
8. Pursuant to this understanding, and in reliance thereon, the Debtor has withdrawn its related claim objection. (Doc No. 68).
9. I have emailed and called JPMorgan Counsel Robert W. Griswold, Esq. multiple times since our last email correspondence to follow up but he has not responded to my communications.
10. I have had the honor of working with Mr. Griswold on numerous matters over the last many years and I have always found him to be an honorable practitioner.
11. I do not believe that he is ignoring my emails and phone calls in an attempt to gain an unfair advantage.
12. I am however concerned that Mr. Griswold has not withdrawn his Motion as he promised because he may be ill with Covid-19.

13. Whatever the reason may be for the Motion to have not already been withdrawn,

JPMorgan cannot in all fairness proceed with its Motion.

14. In fact, for it to proceed is the very definition of bad faith.

15. Alternatively, if this Honorable Court finds that it is appropriate for the Motion to go forward despite the agreement reflected above, the Debtor respectfully requests that it be given an adjournment to oppose the Motion on substantive grounds.

WHEREFORE, the Debtor respectfully request that JPMorgan Chase Bank's Motion to dismiss the instant case be denied with prejudice.

Dated: Brooklyn, New York Respectfully submitted,
May 21, 2020

By: /s/ Joseph Y. Balisok
Joseph Y. Balisok
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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

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In re:

KRISHNA JAGROO

Chapter 7

Debtor.

Case No. 19-40123-nhl

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CERTIFICATE OF SERVICE

STATE OF NEW YORK)
) ss: Brooklyn
COUNTY OF KINGS)

I, Joseph Y. Balisok, hereby declare, under penalty of perjury under the laws of the United States of America, and pursuant to 28 U.S.C. § 1746, that on Thursday, May 21, 2020, I caused to be served a copy of the **OBJECTION TO MOTION TO DISMISS BY JPMORGAN CHASE BANK TO DISMISS CASE** by regular mail upon each of the parties listed on the service list below by depositing true copies of same in sealed envelopes, with postage pre-paid thereon, in an official depository of the United States Postal Service within the borough of Brooklyn in the City and State of New York.

Dated: Brooklyn, New York Respectfully submitted,
 May 21, 2020

By: /s/ Joseph Y. Balisok

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